

Income Determinations Section 515 Properties

With the implementation of 7 CFR 3560, owners and managers are seeing some changes with regards to tenant income and determining eligibility.

7 CFR 3560.153 (a) and (b) states that “Annual Income will be calculated in accordance with 24 CFR 5.609”, and “Adjusted income will be calculated in accordance with 24 CFR 5.611.” In other words, owners and managers of Section 515 Rural Rental Housing properties will utilize the guidance in the HUD regulations in determining tenant income inclusions, exclusions, and adjustments. This subsection of the regulation covers all income inclusions:

- Methods for projecting and calculating annual income.
- Irregular employment income.
- Whose income is counted.
- Income from temporarily absent family members.
- Inclusion of alimony or child support.
- Regular cash contributions and gifts.
- Business income.
- Public assistance income.
- Adjustments for prior overpayment of benefits.
- Periodic payments.
- Income from training programs.
- Resident service stipends.
- Income received by a resident of an Intermediate Care Facility.
- Withdrawal of cash assets from an investment.
- Lump sum payments to be counted as income.

It also covers income exclusions, such as the value of food provided through:

- Food Stamps.
- Meals on Wheels.
- Groceries provided by persons not living in the household.
- Amounts received under the School Lunch Act and the Child Nutrition Act of 1966 and WIC.

Student Income: Enacted as part of HUD’s Fiscal year 2006 appropriations, a new law was implemented that restricts individuals enrolled in an institution of higher education and who meet certain other criteria from receiving assistance under Section 8 of the U.S. Housing Act of 1937.

Effective January 30, 2006, Section 327 of Public Law 109-115 states that NO assistance shall be provided under Section 8 of the U. S. Housing Act of 1937 to any individual who:

1. Is enrolled as a student at an institution of higher education;
2. Is under 24 years of age;
3. Is not a veteran;
4. Is unmarried;
5. Does not have a dependent child; and
6. Is not otherwise individually eligible, or has parents who individually or jointly, are not eligible, to receive assistance.

“For purposes of determining the eligibility of a person to receive assistance under this section, any financial assistance, in excess of amounts received for tuition that an individual receives under the Higher Education Act of 1965, shall be considered income to that individual,

except for a person over the age of 23 with dependent children.”

It is strongly encouraged that public housing agencies, owners and management agencies recertify existing households that have family members that meet the requirements of Section 327 of the Act. Prompt recertification, in addition to careful applicant screening will ensure compliance with the restrictions of the new law.

Additional information regarding 24 CFR 5 and income may be obtained from www.hudclips.org.

Zero Income Certifications: HB 2 3560, Asset Management Handbook, Chapter 6, provides Section 515 owners and managers guidance in determining tenant eligibility. If a prospective tenant or a current tenant reports having zero income, the owner/management and the tenant are required to complete Attachment 6B of the handbook. The applicant or tenant is required to identify all sources of income that will help them meet daily needs to include food, transportation, shelter, etc.

Section 2, Paragraph 6.9 (Page 6-7 through 6-9), further states under sub-paragraph 4 that... “It is the policy of Rural Development *not* to accept a tenant certification for an applicant or tenant with zero income *unless* all income is specifically exempted.” All applicants or tenants must demonstrate financial capacity to meet basic living expenses. HB 2 3560, Chapter 6, Paragraph 6.3, further states that borrowers have the right to determine a minimum income level for households of various sizes for applicants who will not be receiving rental assistance, as long as these guidelines are administered consistently for all potential applicants.

Verification Requirements: Borrowers must verify sources of income prior to admission.

HB 2 3560, Chapter 6, Section 2, Paragraph 6.11 (Page 6-15) states that verification of employment income, as well as household income from sources other than employment, must be verified by the borrower (owner/management) prior to submission of the certification to USDA-Rural Development. Owners and Managers are to have each applicant sign a request for verification of employment at the time of application to the property. This form is to accompany any and all requests for verification from third-party sources. Written verifications provided by third-party sources or documents prepared by third-party sources are the preferred. If oral verifications are to be accepted, they must be documented carefully.

If written, third-party verification from the income source is not immediately possible, income may be temporarily verified by actual examination of paychecks received; check stubs, tax returns or other reliable data that reflects gross income.

Exhibit 6-3, Income Verification Requirements and Procedures, (Page 6-16) provides further guidance in obtaining income verifications from various sources.

Borrower's, in addition to establishing a policy for verifying income, must also establish policy for verifying the following:

- **Disability.** Disabilities are verified only if necessary to qualify the household as an elderly family, or if a disability affects the household's eligibility for deductions from income. Verification may be provided by a physician, a clinic, welfare agency, the Social Security Administration, or other knowledgeable service.

Household Composition. Verification of household composition can be accomplished through a variety of sources and documents. For example, a birth certificate or custody agreement verifies that a minor child is a member of the household. Divorce or separation agreements can verify that an individual is no longer a member of the household.

Wage Matching: Montana is currently underwriting a Memorandum of Understanding with the Montana Department of Labor & Industry to conduct wage and benefit matching. The purpose of this income matching is to improve the controls over income certifications and subsidy payment accuracy by providing an independent source for verifying incomes of participants.

This office will establish a routine by which inquiries will be made and wage matches completed on at least 10% of all initial and subsequent tenant certifications of those households:

1. Earning income;
2. Those residents scheduled to be interviewed prior to a triennial supervisory visit; and
3. For projects where supervisory visits revealed significant discrepancies.

Other incidences when wage and benefit matches may be obtained are for tenant households who are moving into a Section 515 project for the first time, for tenants or applicants claiming zero or unreasonably low incomes, and for existing tenant where the management agent or servicing official deems wage matching appropriate.

Wage and benefit matching information can be obtained from HB 2 3560, Chapter 9, Section 5 (Page 9-27). This office will keep you apprised as to when Montana will conduct its first wage match.

Training Opportunities

SPECTRUM Seminars has issued their 2006 course offerings for Tax Credit Certification and the S.T.A.R. Certification program.

Steve Rosenblatt will be offering his Tax Credit Certification (C3P) 2-day course in Helena on March 28th and 29th, at the Best Western Helena Great Northern Hotel. Steve's S.T.A.R. Certification, 2-day seminar is being held at various locations across the nation through July of this year. He will be in Seattle, WA, on February 23rd and 24th and in Fargo, ND, May 9th through the 10th.

Mr. Rosenblatt will bring you current on changes implemented in the new 3560 regulations and handbooks. Information regarding SPECTRUM, to include course locations and registration may be obtained from their website at www.spectrumsiminars.com or by phone at (207) 767-8000.

Montana Fair Housing is holding a two-day workshop April 20th and 21st at the Fairmont Hot Springs. Concurrent workshops will be held to discuss Fair Housing issues involving requests for reasonable accommodations and modifications; Fair Housing accessibility guidelines; Montana landlord and tenant laws; and, Fair Housing issues involving lending and sales transactions. Attendance at the training provides Continuing Education Credits.

Registration deadline is April 6, 2006. Forms may be obtained by contacting Pam Bean, Montana Fair Housing, 2522 South Third Street West, Missoula, MT 59804, or calling (406) 542-2611.

FY2006 Notices of Funding Availability (NOFA's)

The FY2006 NOFA for USDA-Rural Development's Section 538 Rural Rental Housing Guarantee Program was published in the Federal Register on January 27, 2006. Program funding level for the guarantee program is \$99 million.

Eligible lenders are invited to submit "responses" for the development, or acquisition with rehabilitation, of affordable rental housing to serve rural America. In addition for this fiscal year, guarantees will be available for the revitalization, repair, and transfer cost of existing Section 515 housing. To be considered, Section 515 properties must need repairs and/or undergo revitalization of a minimum of \$6,500 per unit.

Responses received in this office through June 16, 2006, will be reviewed and scored for selection. The Agency will continue to select the highest scoring NOFA responses received after June 16, 2006, as long as the response meets program criteria and funds remain available.

It is anticipated that the Notices of Funding Availability for the Section 515 Direct Loan Program and the Section 533 Housing Preservation Grant Program will be issued by the end of February.

MINC Reminders

All projects with eight (8) units or more are required to transmit tenant certifications and other changes in tenant status via MINC by February 24, 2006.

Any paper certifications received after this date from properties with 8 units or more will be returned unprocessed. If not transmitted via MINC timely, the project

will be responsible for any late fees and/or overages assessed.

REMEMBER: Check the Message Board and FAQ's (Frequently Asked Questions) for current updates.

FY2005 Fiscal Year Financial Reporting

Due to the responses to Hurricanes Katrina and Rita and delayed receipt of the Engagement Letter from our Office of Inspector General (OIG), USDA-Rural Development has postponed the implementation of 7 CFR 3560.308(b), "Engagement Requirements," until June 30, 2006.

Therefore, borrowers financial reporting for their fiscal year 2005 will follow the same requirements previously issued in RD Instruction 1930-C.

All properties will submit to their Servicing Office Form RD 3560-7, MFH Project Budget/Utility Allowance, reflecting actual income and expenses for the project's full 12-month operating year.

Projects with 24 units or less will be required to submit Form RD 3560-10, MFH Borrower Balance Sheet, for the verification of review of project accounts. The Balance Sheet is to be prepared by **"...a competent person qualified by education and/or experience who has no identity of interest or possible conflict of interest with the borrower or its principles."**

For projects with 25 or more units, audit reports in the format as prepared by a Certified Public Accountant (CPA) or Licensed Public Accountant (LPA), and performed in accordance with generally accepted government auditing standards (GAGAS), are to be submitted to your Servicing Office along with Form RD 3560-7.

In addition to the annual financial reports, owners are required to submit additional information and/or reports which provide additional or unique information that augments or otherwise supports other management reports. These may include

- The minutes of annual meetings held if required by organizational charter to maintain such records;
- Documentation of current taxes paid;
- Documentation of current property, liability and fidelity coverage in full force and effect. Remember, insurance requirements must follow the guidance outlined in Chapter 3, of HB 2 3560, Asset Management;
- Current management plans and/or certifications as applicable;
- Current documentation of market and/or outreach.

Annual financial reports are due in your Servicing Office no later than 90 days following the close of the project's fiscal year. Example: Project fiscal year closes December 31, 2005. Financial reports are due no later than close of business on the 31st of March, 2006.

If the audit or verification of review cannot be submitted by the due date, and the owner presents a request for extension supported by evidence that delay is at the request of the auditor, the Servicing Office may authorize up to a 60-day extension of the due date.

Further guidance regarding submission of your FY2005 reports may be obtained from the unnumbered letter issued on October 6, 2005 at the USDA-Rural Development website at www.rurdev.usda.gov/regs and click on the link for Unnumbered Letters

Montana Website

Remember to visit our state website at www.rurdev.usda.gov/mt

Available at the website are copies of:

- Newsletters;
- Attachment 6B, Zero Income Certification;
- 7 CFR 3560.160, Tenant Grievance & Appeal Process;
- Form RD 3560-12, Request for Authorization to Withdraw Reserves;
- FY2006 Funding NOFA's.

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